

HOUSE BILL 4139

By Jones S

AN ACT to amend Tennessee Code Annotated, Title 36
and Title 37, relative to parentage and the
termination of parental rights.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-111(r)(1)(A), is amended by deleting the language "if the child is ultimately adopted".

SECTION 2. Tennessee Code Annotated, Section 36-1-111(w)(2)(A), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(A) The execution of the waiver shall irrevocably terminate all rights the alleged biological father has or may have to the child and any rights the child has or may have relative to the alleged biological father. The waiver, except as provided in subdivision (2)(B), shall also terminate the responsibility of the alleged biological father for any future child support or other financial obligations to the child, or to the child's mother that are related to the child's support, arising after the date of the execution of waiver.

SECTION 3. Tennessee Code Annotated, Section 36-1-111(w)(2)(B), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(B) If after execution of the waiver, a final order of adoption is not entered and the alleged biological father executes a voluntary acknowledgement of paternity, the alleged biological father shall become liable for child support or other financial obligations to the child, or to the child's mother that are related to the child's support, arising after the execution of the waiver and beginning upon the date of the biological father's execution of a voluntary acknowledgment of paternity; provided, if paternity is later established, the alleged biological father who executed the waiver shall be liable for all or a portion of the actual medical and hospital expenses of the child's birth and all or a portion of the

mother's pre-natal and post-natal care up to thirty (30) days following the child's birth if voluntary acknowledgement of paternity is executed within two (2) years of the date of the execution of the waiver.

SECTION 4. Tennessee Code Annotated, Section 36-1-117(a), is amended by deleting the subsection in its entirety and substituting instead the following new, appropriately designated subsection:

(a) Unless the parent, the legal parent, or the guardian, or, as provided in subsections (b) and (c), the putative biological father of the child has surrendered parental or guardianship rights to the child, has executed a parental consent that has been confirmed by the court, has waived such person's rights pursuant to 36-1-111(w), or unless such person's rights have been terminated by the order of a court of competent jurisdiction, the legal parents, guardian of the person of the child or of an adult, the biological mother, and the established father or putative father of the child must be made parties to the adoption proceeding or to a separate proceeding seeking the termination of those rights, and their rights to the child must be terminated by a court to authorize the court to order the adoption of the child or adult by other persons. This section shall not entitle an unknown biological father or an alleged biological father who has not established paternity and is not listed on the putative father registry under § 36-2-318 to notice of the adoption proceeding or to a separate proceeding seeking termination of parental rights.

SECTION 5. Tennessee Code Annotated, Section 36-1-113(g), is amended by deleting subdivisions (4) and (5) in their entireties and substituting instead the following language:

(4) The parent or guardian has been found to have committed severe child abuse as defined in 37-1-102, under any prior order of a court or is found by the court hearing the petition to terminate parental rights or the petition for adoption to have committed

severe child abuse against the child who is the subject of the petition or against any other child;

(5) The parent or guardian has been sentenced to more than two (2) years' imprisonment for conduct against the child who is the subject of the petition, or any other child, that has been found under any prior order of a court or that is found by the court hearing the petition to be severe child abuse, as defined in 37-1-102. Unless otherwise stated, for purposes of this subdivision (g)(5), sentenced shall not be construed to mean that the parent or guardian must have actually served more than two (2) years in confinement, but shall only be construed to mean that the court had imposed a sentence of two (2) or more years upon the parent or guardian;

SECTION 6. Tennessee Code Annotated, Section 36-1-113(g), is further amended by deleting the word "and" at the end of subdivision (8)(C), by adding the word "and" to the end of subdivision (9)(B)(ii), and by adding the following as a new subdivision (10):

(10) The parent has been convicted of rape, from which the child was conceived.

SECTION 7. Tennessee Code Annotated, Section 36-1-124(a), is amended by adding the following language to the end of the subsection:

Within thirty (30) days of the filing the petition, the trial court shall set a date for a status conference and enter a scheduling order. No trial for the termination of parental rights shall be continued more than once unless the trial court finds that there is good cause for the subsequent continuances. If such a case has not been completed within six (6) months from the date the petition was served, the petitioner or respondent shall have grounds to request that the court of appeals grant an order expediting the case at the trial level.

SECTION 8. Tennessee Code Annotated, Section 36-1-124(b), is amended by adding the following language to the end of the subsection:

In such cases, the notice of appeal of the trial court's decision shall be signed by the party appealing.

SECTION 9. Tennessee Code Annotated, Section 37-1-102(b)(21)(C), is amended by deleting the subdivision in its entirety and substituting instead the following new, appropriately designated subdivision:

(C) The commission of any act towards the child prohibited by §§ 39-13-502 -- 39-13-504, 39-13-506(b) and (c), 39-13-522, 39-15-302, and 39-17-1005 or the knowing failure to protect the child from the commission of any such act towards the child; or

SECTION 10. Tennessee Code Annotated, Section 36-2-304(b), is amended by deleting subdivisions (1) and (2) in their entireties and substituting instead the following:

(1) A presumption under subsection (a) may be rebutted in an appropriate action.

(2) A petition to establish parentage may be brought under this part if a dismissal of a petition under the prior legitimization statutes was based upon the mother's marriage to another man at the time of conception or upon the petitioner's lack of standing. It is the intent of the general assembly that putative fathers who filed a cause of action under this chapter prior to the July 1, 1997, effective date of Acts 1997, ch. 477, and whose action was so dismissed, shall have an opportunity to prosecute a single cause of action under this part. Thus, the doctrines of res judicata and collateral estoppel shall not bar such new or pending action, nor shall any statute of limitation that may have run bar such new or pending action. It is the clear and unequivocal intent of the general assembly that this provision shall be applied retroactively to such petitions to establish parentage. No such retroactive application shall, however, abrogate the provisions of 36-1-122.

SECTION 11. This act shall take effect July 1, 2008, the public welfare requiring it.